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13 Proposed Attorneys for Official Committee of Unsecured Creditors

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 8 **UNITED STATES BANKRUPTCY COURT**
 9 **DISTRICT OF NEVADA**

10 **In re:**

11 **USA Commercial Mortgage Company**
 12 **06-10725 – Lead Case**

13 **USA Capital Realty Advisors, LLC**
 14 **06-10726**

15 **USA Capital Diversified Trust Deed Fund,**
 16 **LLC**
 17 **06-10728**

18 **USA Capital First Trust Deed Fund, LLC**
 19 **06-10728**

20 **USA Securities, LLC**
 21 **06-10729**

22 **Debtors.**

Jointly Administered

Chapter 11 Cases

Judge Linda B. Riegle Presiding

**Omnibus Response To Motions For
 Return Of Funds From The Investor
 Account**

Date: June 15, 2006

Time: 10:00 a.m.

Affecting:

All Cases

or Only:

- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC

22 The Official Committee of Unsecured Creditors of USA Commercial Mortgage
 23 Company (the “Committee”), responds to the several motions by investors who made
 24 prepetition payments that USA Commercial Mortgage Company (“Commercial
 25 Mortgage”) deposited into its Investor Account, but which did not result in the assignment
 26 of the loan the investor sought to purchase. Those motions include:

**LEWIS
AND
ROCA
LLP**
LAWYERS

- 1 • Motion For Order Authorizing Return Of Non-Invested Funds Of Jasper
- 2 Benincasa And Flocerfida Benincasa [DE 502, 233]¹
- 3 • Motion for Order Authorizing Return of Non-Invested Funds filed by
- 4 Florence Alexander, Stanley Alexander, Stanley Alexander Trust [DE 155]
- 5 • Motion for Authorizing Return of Non-Invested Funds filed by Crosbie B.
- 6 Ronning, Grable L. Ronning, The Bosworth 1988 Family Trust, The Wild Water Limited
- 7 Partnership [DE 194]

8 The Committee joins in Debtor's response [DE 326] to the investors' prior motions
 9 suggesting that each investor's claim to funds in the DIP Investor Account must be
 10 resolved through an interpleader action. Those investors as to whom either the sale of
 11 their loan or the purchase of another loan was not closed, but as to which there are not
 12 sufficient funds in the DIP Investor Account, appear to be unsecured creditors. They are
 13 not entitled to payment prior to confirmation of a plan of reorganization.

14 Dated June 9, 2006.

15 **LEWIS AND ROCA LLP**



16 By /s/ RC (#006593)

17 Susan M. Freeman, AZ 4199 (pro hac vice)

18 Rob Charles, NV 6593

19 *Proposed Attorneys for Official Committee of
Unsecured Creditors*

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 26 ¹ The original motion was denied at the hearing on June 5, 2006. From papers filed by Benincasa, it appears that the new motion may be heard on June 15, 2006.